



**General Allegation submitted to the Mandate of the Special Rapporteur on the Human Rights of Internally Displaced Persons, The Special Rapporteur on the Right to Food, the Special Rapporteur on the Human Rights to Safe Drinking Water And Sanitation, The Special Rapporteur on Adequate Housing as a Component of the Right to an Acceptable Standard of Living and the Right to Non-Discrimination in this Context, The Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, The Special Rapporteur on the Right to Education, The Special Rapporteur on The Rights of Persons with Disabilities, The Special Rapporteur on Extreme Poverty and Human Rights, The Working Group on Enforced or Involuntary Disappearances, The Working Group on Arbitrary Detention, and The Special Rapporteur on The Independence of Judges and Lawyers**

**Date:07. March.2022**

#### *Excellencies*

*While the total number of internally displaced people (IDPs) in various regions of the Syrian Arab Republic reached 6.7 million, the organizations participating in this general allegation letter claim that the Syrian Arab Republic has not complied with its negative and positive international obligations to respect, protect, and fulfil the rights of IDPs, especially in areas outside government control. As the number of IDPs continues to increase, they are deprived of their fundamental rights such as the right to access food, safe water, adequate housing, education, physical and mental health, and property, as well as their right to protection from direct or indiscriminate targeting as civilians not participating in hostilities. They are also deprived of the right to freedom from arbitrary arrest and enforced disappearance, which necessarily deprives them of their right to return safely and dignifiedly to their areas of origin.*

## Introduction

From 16 to 19 May 2015, the Special Rapporteur on the human rights of internally displaced persons visited the Syrian Arab Republic. His report (No. A/HRC/32/35/Add.2) on the visit was presented before the Human Rights Council at its thirty-second session. The report mainly highlights that the Syrian authorities not only failed to protect civilians from or during displacement "but their deliberate targeting of non-combatants has also been the main cause for their massive displacement."<sup>1</sup> The Special Rapporteur asserted that "while many have fled the conflict and the indiscriminate bombardments or ground attacks, others left due to fear of violence or remain in locations that may fall under different areas of control or shifting front lines. Some have moved in search of or to reunite with family members or owing to economic and social deterioration. Poverty has left many needing to seek employment, better living conditions or more readily available food and fuel, for example in locations where humanitarian assistance is more easily accessible."<sup>2</sup> The report also indicated that one of the most critical difficulties facing the internally displaced is the loss of their identity papers, which causes them to lose many related rights such as work, education, and freedom of movement. In addition, the right to obtain official documents faces many barriers, including the unstable situation and the fear of IDPs living in areas outside the government's control of appearing before official government departments to issue new documents instead of the lost ones. This is made more difficult because the security forces view those coming from the opposition-controlled areas with suspicion.<sup>3</sup>

The report concluded with recommendations made by the Special Rapporteur to the Syrian government. The recommendations include that the government urgently should establish a legal and policy framework to protect internally displaced persons following the Guiding Principles on Internal Displacement.<sup>4</sup> The government should also make long-term solutions to residence, land, and property issues. Such solutions should address compensation and property recovery issues following international standards.<sup>5</sup> The government should guarantee freedom of movement and ensure that internally displaced persons can reach safe places, especially those existing between areas that are under the control of different forces, without arbitrarily arresting those who have lost their identification papers or who are of military age, and without discrimination based on ethnic, religious, or origin.<sup>6</sup> In

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<sup>1</sup> UNGA, 'Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons on His Mission to the Syrian Arab Republic' (2016) A/HRC/32/35/Add.2 para 15.

<sup>2</sup> *ibid* 13.

<sup>3</sup> *ibid* 32–34.

<sup>4</sup> *ibid* 84.

<sup>5</sup> *ibid* 90.

<sup>6</sup> *ibid* 94–95.

addition, basic humanitarian aid and medical supplies should be provided for everyone who needs them without unjustified restrictions on moving supplies to the population in affected areas or areas controlled by non-state actors.<sup>7</sup> The education of internally displaced children should be protected, and all necessary measures should be taken to provide adequate and safe educational facilities.<sup>8</sup>

While the total number of internally displaced people (IDPs) in various regions of the Syrian Arab Republic reached 6.7 million, the organizations participating in this general allegation letter claim that the Syrian Arab Republic has not complied with its negative and positive international obligations to respect, protect, and fulfil the rights of IDPs, especially in areas outside government control. As the number of IDPs continues to increase, they are deprived of their fundamental rights such as the right to access food, safe water, adequate housing, education, physical and mental health, and property, as well as their right to protection from direct or indiscriminate targeting as civilians not participating in hostilities. They are also deprived of the right to freedom from arbitrary arrest and enforced disappearance, which necessarily deprives them of their right to return safely and dignifiedly to their areas of origin.

## Factual Background

### 1.1 The situation of IDPs in northwestern and northeastern Syria

1. Out of a total population of four million in northwest Syria, the United Nations High Commissioner for Refugees (UNHCR) monitors about 2.7 million internally displaced persons in dire need of humanitarian assistance. In its October 2021 report, UNHCR notes that shelter options in northwest Syria are limited, as hostilities have destroyed the area's infrastructure, including health facilities, schools, and bakeries. In addition, the economic situation is deteriorating, and harsh weather conditions severely damage the shelter and property of IDPs by floods and fires.<sup>9</sup>
2. In its Resolution A/HRC/RES/48/15, the Human Rights Council expressed its deep concern about the recent increase in violence in northwestern Syria, including airstrikes, which resulted in the killing and wounding of 45 children from the beginning of July 2021 until the date of the issuance of the mentioned resolution. In addition, this violence severely impacted civilians,

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<sup>7</sup> *ibid* 96, 100.

<sup>8</sup> *ibid* 99.

<sup>9</sup> UNHCR, 'North-West Syria' (September and October 2021) Fact Sheet <<https://reporting.unhcr.org/document/971>> accessed 8 December 2021.

especially IDPs.<sup>10</sup> In addition, medical facilities and humanitarian and medical personnel were not immune from direct targeting by the Syrian government and forces loyal to it. The Commission of Inquiry concluded that there are reasonable grounds to believe that the Syrian government and pro-government parties committed the war crime of launching indiscriminate attacks on medical facilities resulting in death or injury to civilians.<sup>11</sup>

3. These displaced persons live under challenging conditions while searching for an adequate standard of living and securing basic survival necessities after forcibly leaving their homes and livelihoods. Their sufferings are made worse by the deteriorating economic situation and increasing prices that don't commensurate with their sources of income. Therefore, the most significant number of these IDPs were forced to live in camps, as most of them could not afford to pay the exorbitant rents for private homes. Even if IDPs decide to rent a house, their opportunity to find a house is weak due to the continuous increase in IDPs' numbers.
4. IDPs in northwestern Syria are characterized by being deprived of the right to adequate housing and health. The United Nations Office for the Coordination of Humanitarian Affairs stated that approximately 1.7 million people live in camps in northwestern Syria, facing life-threatening conditions throughout the year, such as climate change, Covid-19, and the absence of means to help them survive or stay healthy.<sup>12</sup> As a result of climate change in northwest Syria, crops, especially wheat, have declined. Rainfall rates across five agro-ecological zones were inconsistent. In some areas, unexpected weather conditions negatively affected agricultural production, while torrential rains in others led to floods and damaged dwellings, properties, and agricultural fields.<sup>13</sup> According to what was reported by the United Nations Office for the Coordination of Humanitarian Affairs in January 2021, heavy rains in Idlib and northern Aleppo damaged at least 196 IDP sites, with at least 67,647 people affected by the floods.<sup>14</sup>
5. In addition to their severe environmental damage, existing heating methods inflict fatal injuries to the tent occupants. At the beginning of 2020 and 2021, Hurras Network documented the death of two children and severe burns to the other three children due to a fire in the camps.

<sup>10</sup> UNGA, 'Resolution Adopted by the Human Rights Council 8 October 2021: 48/15. Situation of Human Rights in the Syrian Arab Republic' (2021) A/HRC/RES/48/15 para 9.

<sup>11</sup> *ibid* 12.

<sup>12</sup> UNOCHA, 'Recent Developments in Northwest Syria and RAATA' (2021) Situation Report No. 32 <<https://www.humanitarianresponse.info/en/operations/stima/document/situation-report-32-recent-developments-northwest-syria-and-raata-october>> accessed 8 December 2021.

<sup>13</sup> UNOCHA, 'Recent Developments in Northwest Syria and RAATA' (2021) Situation Report No. 29 <<https://reliefweb.int/report/syrian-arab-republic/recent-developments-northwest-syria-and-raata-situation-report-no-29>> accessed 8 December 2021.

<sup>14</sup> UNOCHA, 'Syrian Arab Republic: Recent Developments in Northwestern Syria' (2021) Situation Report No. 24 <<https://reliefweb.int/report/syrian-arab-republic/syrian-arab-republic-recent-developments-northwestern-syria-situation-14>> accessed 8 December 2021.

- Three other children died of suffocation due to the materials used for heating in the camps. Hurras Network also recorded the death of 4 children inside their tents due to the extreme cold.
6. These inhumane conditions contribute to the worsening of the poor health of those residing in the camps, especially with the spread of the COVID-19 virus. According to the United Nations Office for the Coordination of Humanitarian Affairs, the number of documented coronavirus cases until 31 October 2021 in northwestern Syria, Ras al-Ain and Tal Abyad reached 88,423, and deaths due to the virus reached 1,847. Meanwhile, intensive care units are occupied by 96 %.<sup>15</sup> Mr. Farhan Haq, the Deputy Spokesperson for the Secretary-General of the United Nations, noted that more than 1000 people are infected with Covid-19 per day in northwest Syria. There was an increase of 170% in the total number of positive cases in September 2021 alone. There is an acute shortage of COVID-19 testing kits and oxygen. In addition to that, less than 3% of the population in the northwest has been vaccinated.<sup>16</sup> Sterilizing and cleaning materials are hardly available inside the camps. Several random camps were built over sewage, which often overflows and contributes to the transmission of infection and diseases quickly.
  7. While these health conditions threaten all IDPs, their impact on people with disabilities has had significant repercussions. According to the United Nations Office for the Coordination of Humanitarian Affairs, persons with disabilities constitute 36% of IDPs in northwest Syria. When interviewing more than 800 people in 100 displacement sites, the results showed that most interviewed people did not have proper access to services consistent with their needs. 61% of the interviewees stated that they do not have access to water facilities, 80% said they were not consulted on the design of the facilities, 78% said they were not consulted about the location of the facilities, 68% of them said they do not have access to working toilets, and 96% of them said they didn't get a hygiene kit that met their needs".<sup>17</sup>
  8. On the other hand, the deteriorating economic situation and extreme poverty suffered by the IDPs in northwest Syria weaken their ability to access a decent life and further deprive them of their fundamental rights such as the right to food and access to safe drinking water. Mr. Farhan Haq, the Deputy Spokesperson for the Secretary-General of the United Nations, stated that extreme poverty in the region had reached 97%, while IDPs mainly depend on humanitarian assistance.<sup>18</sup> In this regard, Hurras Network indicated that humanitarian aid provided by the Syrian government entered for the first time northwest Syria in August 2021. This aid included

<sup>15</sup> UNOCHA, 'Recent Developments in Northwest Syria and RAATA' (n 12).

<sup>16</sup> 'Daily Press Briefing by the Office of the Spokesperson for the Secretary-General' (1 October 2021) <<https://www.un.org/press/en/2021/db211001.doc.htm>> accessed 8 December 2021.

<sup>17</sup> UNOCHA, 'Recent Developments in Northwest Syria and RAATA' (n 12).

<sup>18</sup> 'Daily Press Briefing by the Office of the Spokesperson for the Secretary-General' (n 16).

15 trucks loaded with 12 thousand food portions. The second batch of aid entered nearly four months later, on 9 December 2021. The network indicates that this aid never matches the needs of IDPs in the region. Such needs are not limited to food only but include the basics, such as safe housing, decent living, clothes, medical services, and education.

9. Parents prefer not to send their children to school, but instead, they want their children to work to help parents provide sources of livelihood. Often this work violates the fundamental rights of children. In this regard, Hurras Network points out that the extreme poverty experienced by IDPs in northwestern Syria is an important reason for depriving children of their right to education.
10. Poverty is not the only reason why children drop out of education. The United Nations Office for the Coordination of Humanitarian Affairs stated that schools in northwest Syria are still affected by armed conflict and hostilities, and 47 schools were damaged and destroyed in 2020 alone.<sup>19</sup> The report (They Have Erased the Dreams of My Children) issued by the International Commission of Inquiry on Syria confirmed the existence of evidence alleging that the Syrian government and its allied forces are involved in targeting schools and educational centers despite the presence of large numbers of children in them.<sup>20</sup> For example, the Commission documented, on 24 November 2018, an attack in which pro-Syrian forces used mortar projectiles near al-Khansaa primary school in Jarjanaz. According to the International Commission of Inquiry:

*"Some 250 children were playing in the schoolyard when a rocket assisted mortar projectile exploded approximately 50 meters away, killing at least four boys aged between 8 and 10 years, and two girls aged 10 and 11 years. Numerous other children were injured. A pregnant female teacher, attempting to flee with her spouse and a four-year-old boy, was also killed, while the boy lost a limb during the shelling. One interviewee recalled seeing the dismembered bodies of children, along with their shoes and backpacks, scattered across the schoolyard. The shelling continued throughout the day, and a three year-old girl was killed later that evening."<sup>21</sup>*

11. As for the northeastern regions of Syria, despite the different contexts of the armed conflict there, IDPs are faced with several challenges. Justice for Life organization has monitored the adverse effects of the closure of the Yarubiyah border crossing with Iraq on the residents and

<sup>19</sup> UNOCHA, 'Recent Developments in Northwest Syria and RAATA' (n 13).

<sup>20</sup> UNGA, "They Have Erased the Dreams of My Children": Children's Rights in the Syrian Arab Republic' (2020) Conference Room Paper of the Independent International Commission of Inquiry on the Syrian Arab Republic A/HRC/43/CRP.6 para 42 et seq.

<sup>21</sup> UNGA, 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic' (2019) A/HRC/40/70 para 29.

IDPs of northeastern Syria, especially their right to food and health. The only outlet for receiving food and health aid has come from the areas under the Syrian government's control making the political and military interests control this vital sector, which is responsible for the survival of civilians and their enjoyment of a decent level of human dignity. In this regard, the field team of Justice for Life reported that "customs duties" were being imposed by the conflicting parties in the region (the Syrian government and the Syrian Democratic Forces) on food and health items entering and leaving the areas of northeastern Syria. Therefore, there was a tremendous increase in the prices of goods and services that exceeded the civilians' purchase ability in light of the dire economic situation in the region. In addition, there are allegations that there are barter relationships in the essential supplies for the population's life between the two sides of the conflicting-parties controlled areas. For example, the Syrian government provides medical supplies from the areas controlled by the Syrian government to obtain quantities of oil and gas from the areas controlled by the Syrian Democratic Forces. This relationship would leave the rights of the civilian population, including IDPs, vulnerable to blackmail and military interests between the two parties to the conflict, and supplies are cut off or reduced if one party does not respond to the demands of the other.

12. It is worth noting that the relationship between the Syrian government forces and their allies on the one hand, and the Syrian Democratic Forces, on the other hand, is uninterrupted. The field team of Justice for Life reported security and military contact between the parties to the conflict in Hasaka, Raqqa, and Deir Ez-Zor. For example, it was agreed between the Syrian government and the Syrian Democratic Forces to deploy military forces affiliated with the Syrian government on the conflict line between the Syrian Democratic Forces and the Turkish-backed "National Army" in al-Hasakah. As for Raqqa, the Syrian Democratic Forces allowed Russian patrols to cross from Tabqa to northern Raqqa. In addition, there is security coordination between the Syrian Democratic Forces and the Syrian government in Ain Issa. Such coordination is in the form of common military checking points. It is interesting to mention that it is not being exploited to provide the basic rights of civilians residing in the area despite this contact. Food, health, medical supplies, and vaccines remained the cards of pressure and negotiation between the two parties. This worsens the situation of the residents of these areas, especially in light of the spread of the Covid-19 virus.

## 1.2 Restrictions on freedom of return to Syrian government-controlled areas

13. Many IDPs have been deprived of their right to move and return to their areas of origin after being stripped of their right to own their property. As for IDPs, whose properties are located in areas controlled by non-state actors, Syrians for Truth and Justice organization documented cases of looting of the properties of these IDPs by the controlling parties there and the refusal of the Syrian government to assist the IDPs in recovering them. In northeastern Syria, for example, Syrians for Truth and Justice documented many cases in which the official departments of the Syrian government refrained from providing any legal assistance to IDPs to protect their property rights. Some of these IDPs, who are victims of property rights violations, resorted to official government departments to document these violations in pursuit of obtaining official documents that enable them to recover their property in the future. By examining several documents that the victims provided to Syrian for Trust and Justice, it was found that many of them failed in obtaining official documents or filing lawsuits to recover property because the courts refused to register such lawsuits for fear of the security agencies. Some cases were rejected on the pretext that the property to be noted is located in areas not controlled by the Syrian government. Thus, the judge and the real estate expert cannot access those areas.<sup>22</sup>
14. As for IDPs, whose properties are located in areas controlled by the Syrian government, they face the risk of local laws that violate their property rights. For example, the Syrian People's Assembly (the Parliament) issued Law No. 10 of 2018 that creates one or more regulatory areas within the general organizational scheme of the administrative units. This law stipulates that the state can create regulatory zones without any criterion. When deciding to regulate a district, local authorities must provide a list of property owners in the community. Here lies the problem. Properties' owners, their guardians, representatives, or relatives up to the fourth degree, within 30 days only, must submit documents proving their ownership of the property. In the absence of records, the property owners must submit an application mentioning the locations, boundaries, shares, the legal type of the property, the rights they claim, and all the lawsuits brought by or against them.<sup>23</sup> It is worth noting that this law does not consider the conditions of IDPs, especially those residing in areas outside the control of the government. Many IDPs fear appearing before state agencies to claim lest they are exposed to reprisals for their political opinion or displacement to areas outside the government's control. Assigning a relative or legal

<sup>22</sup> To read the full report see Syrians for Truth and Justice, 'Nothing Is Left of My Home Except the Keys!' (STJ 2021) <<https://stj-sy.org/en/nothing-is-left-of-my-home-except-keys/>> accessed 9 December 2021.

<sup>23</sup> Law No. 10 of 2018 on Establishing One or More Organisational Zones within the General Organizational Chart of Administrative Units Art 2 (2).

representative is difficult because thousands of IDPs and refugees don't have official identification documents. These documents are essential for making a legal power of attorney and submitting requests for proof of ownership.<sup>24</sup>

15. In addition, the Syrian government has intentionally confiscated large areas of agricultural land in the governorates of Hama and Idlib. These lands are owned by civilians who were forced to flee their locations due to the military operations launched by the Syrian government forces and their allies, leaving behind their lands and homes. Then, after the government's control over several towns in the north and northwest countryside of Hama and southern Idlib in February 2020, these lands were sold by the government in public auctions to be rented and invested. This process of confiscating and auctioning took place in Hama on the pretext that the owners of these lands live in areas controlled by "terrorist organizations," as claimed by Hama's security and military committee. As for Idlib, the confiscating was done by "Idlib Peasants Association" affiliated with the Syrian government, on the pretext that the owners of these lands are indebted to the Cooperative Agricultural Bank, noting that they are in areas not under the control of the Syrian government.<sup>25</sup> In this regard, the Commission of Inquiry concluded that "[t]he acts of confiscation of private property described above, in particular those that are likely to generate personal gain, may amount to pillage, which is strictly prohibited under international humanitarian law and amounts to a war crime. The property rights of displaced persons are also specifically protected as a customary norm of international humanitarian law, and must be respected by all parties. Private property is also protected under international human rights law, as no one is to be arbitrarily deprived of their property."<sup>26</sup>

16. In addition to the above, the documentation of the organizations participating in this submission confirms that IDPs and those returning to areas under the control of the Syrian government have been subjected to arbitrary arrests and enforced disappearances. This arrest is because they were in areas not controlled by the government, exercising their right of expression, or their origin and place of birth. Human Rights Watch made it clear in its World Report 2021 that the Syrian security forces continue to practice arbitrary arrest and enforced disappearance against

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<sup>24</sup> Human Rights Watch, 'Q&A: Syria's New Property Law' (29 May 2018) <<https://www.hrw.org/news/2018/05/29/qa-syrias-new-property-law>> accessed 9 December 2021.

<sup>25</sup> Syrians for Truth and Justice, 'The Syrian Government Is Seizing Large Swathes of IDPs Lands in Hama and Idlib Suburbs' (*Syrians for Truth and Justice*, 10 June 2021) <<https://stj-sy.org/en/the-syrian-government-is-seizing-large-swathes-of-idps-lands-in-hama-and-idlib-suburbs/>> accessed 9 December 2021; Syrians for Truth and Justice, 'Hama: Syrian Government Auctions New Swathes of IDP's Lands' (*Syrians for Truth and Justice*, 27 September 2021) <<https://stj-sy.org/en/hama-syrian-government-auctions-new-swathes-of-idps-lands/>> accessed 9 December 2021.

<sup>26</sup> 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, Submitted to the Human Rights Council in Its Forty-Eighth Session' (2021) A/HRC/48/70 paras 38–43.

persons returning to the government's areas of control.<sup>27</sup> This was confirmed by the International Commission of Inquiry report and the Human Rights Council resolution. They referred to the arbitrary arrests and enforced disappearances committed by state agencies against the returnees, confirming that the Syrian Arab Republic does not constitute a safe environment for the sustainable and dignified return of the 6.7 million IDPs.<sup>28</sup>

17. It is noteworthy that in Syria, the act of "enforced disappearance" is not criminalized as an autonomous crime according to international standards in the Syrian penal code. The Syrian Arab Republic asserted in its recent national report submitted to the Working Group on the Universal Periodic Review that the term "enforced disappearance" does not exist in Syrian law. Nonetheless, it argued that first of all, "the law does penalize abduction and deprivation of liberty" which, according to the Syrian government, are classified as enforced disappearance. In this regard, it made explicit reference to Legislative Decree No. 20 of 2013 which criminalizes the act of abduction if committed with a specific intention.<sup>29</sup> However, the Syrian President has issued an amnesty decree for all perpetrators of kidnappings before 2 May 2021 if two conditions are met. First, the offender is pardoned if they released the victims before the amnesty decree was issued without causing permanent disability to them. Second, the offender is pardoned if they take the initiative to remove the kidnapped safely and without any consideration, or if they handed the victim over to any competent authority within ten days from the date on which the amnesty decree entered into force.<sup>30</sup> Thus, offenders who released the victims within the specified period or without causing them permanent disability were granted an amnesty from punishment. This amnesty decree deprives victims of the most straightforward guarantees of non- recurrence. The Syrian Penal Code requires the aggravation of the penalty for offenders who have been convicted of a previous offence and recommitted a new crime subsequent to the sentence. As for the existence of a general amnesty, the offence

<sup>27</sup> Human Rights Watch, 'Syria: Events of 2020' (2021) <<https://www.hrw.org/world-report/2021/country-chapters/syria>> accessed 21 December 2021.

<sup>28</sup> 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, Submitted to the Human Rights Council in Its Forty-Eighth Session' (n 26) para 121; UNGA, 'Resolution Adopted by the Human Rights Council 8 October 2021: 48/15. Situation of Human Rights in the Syrian Arab Republic' (n 10) paras 13–14.

<sup>29</sup> See "The term "enforced disappearance" does not exist in Syrian law. Nonetheless, the law does penalize abduction and deprivation of liberty, which are internationally classified as enforced disappearance. Under Legislative Decree No. 20 of 2013, anyone who abducts another thereby depriving that person of liberty with the intention of achieving political, material or sectarian ends, of reprisal and revenge or of demanding ransom is liable to life imprisonment with hard labour. If the abduction leads to the death or permanent disability of the victim, or if the victim is sexually assaulted, the perpetrator is liable to the death penalty. The penalty also extends to anyone who seeks to practise extortion in any form against the victim, the victim's spouse or any of the victim's direct or indirect antecedents or descendants", Extracted from Universal Periodic Review, National Report Submitted in Accordance with Paragraph 5(1) of the Annex to Human Rights Council Resolution 5/1: Syrian Arab Republic, UN Doc. A/HRC/WG.6/40/SYR/1, 17 November 2021, para 44, available online at: <https://undocs.org/en/A/HRC/WG.6/40/SYR/1> ; Legislative Decree No. 20 on Criminalizing and Punishing Abduction 2013 Art 1.

<sup>30</sup> Legislative Decree No. (13) on Granting Amnesty for Crimes Committed Before (2.May.2021) 2021 Art 7.

covered by the amnesty is not considered a criminal precedent and thus will not be registered as a crime in the perpetrator's criminal record. This increase obstacles facing the victims to get their right to an effective remedy and guarantees of non-reoccurrence.

18. The two Legislative Decrees 1969/14 and 64/2008 give immunity to security forces from prosecution on the crimes they commit while performing their duties. The two decrees allow the prosecution of security forces only after obtaining approval from their administrations. Decree 64/2008 states in its first article that prosecution orders are issued against officers, members of the Internal security forces, members of the political security forces, and members of the customs police, by a decision of the Commander in Chief of Armed Forces. Accordingly, the Public Prosecution cannot initiate prosecutions against these members unless the Commander in Chief of Armed Forces approves this, which constitutes a clear violation of the independence of the judiciary and the Public Prosecution.<sup>31</sup>
19. It is worth noting that this obstruction of prosecutions has a decisive impact on victims' right to an effective remedy, especially when taking into account the statute of limitations on these rights. Syrian law does not consider the classification of international crimes and the consequent prohibition of statute of limitations on them. Rather, it classifies this type of crime under ordinary crimes, and therefore is subject to the statutes of limitations. Accordingly, the Syrian Code of Criminal Procedure stipulates in Articles 437 and 438 that criminal lawsuit and the related civil lawsuit shall lapse after ten years from the date of the felony and three years from the misdemeanor if no prosecution was conducted. If the Commander in Chief of Armed Forces refused or delayed issuing an order to prosecute one security personnel, the statute of limitations would apply. Consequently, the victims would lose their right to seek redress from the perpetrators upon the expiry of the specified period. As for the crime of enforced disappearance, the perpetrators were granted a general amnesty on 2 May 2021 due to the Syrian Government's wrong analogy between the crime of enforced disappearance and abduction. Consequently, by disabling criminal prosecutions and granting amnesty to the perpetrators, victims lose their right to prosecute the perpetrators before a fair and independent court that provides effective remedies and guarantees of non-reoccurrence.

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<sup>31</sup> Article 30 of Legislative Decree 14/1969 states that "This law shall not be published and goes into effect on the day of issuance." However, you can find the analysis of the decree in: *Alternative Report to the Syrian Government's Initial Report on Measures taken to Fulfil its Commitments under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, by Damascus Center for Human Rights Studies, available online at [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SYR/INT\\_CAT\\_NGO\\_SYR\\_48\\_10106\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SYR/INT_CAT_NGO_SYR_48_10106_E.pdf). Page 5-6; Legislative Decree No. 64 on The Prosecution of Police Officers, Customs and Political Security Personnel, Before the Military Court 2008, Art 1. Available at: <http://www.parliament.gov.sy/arabic/index.php?node=5585&nid=16268&First=0&Last=3&CurrentPage=0&mid=&refBack=>

## The Legal Framework

20. International human rights law guarantees the right of everyone to an adequate standard of living. The Guiding Principles on Internal Displacement (Hereinafter referred to as "the Guiding Principles") refer to a set of rights and guarantees inspired by international human rights and humanitarian law relevant to the protection of IDPs during their displacement and return. Principle 18 of the Guiding Principles affirms that the state is obliged to respect and protect the enjoyment of IDPs with this right without discrimination. The competent authorities shall provide IDPs with and ensure safe access to essential food and potable water, basic shelter and housing, appropriate clothing, essential medical services and sanitation. In this regard, The Committee on Economic, Social and Cultural Rights clarified in its General Comment No. 4 that one of the criteria for adequate housing is its habitability, with proper space of residents and protection from cold, damp, heat, rain, wind, or other health threats.<sup>32</sup> According to the facts mentioned above, it is clear that Syria has failed to take the minimum necessary measures to provide an adequate standard of living for IDPs. In addition, it has also failed to provide the essential components of food, housing, access to safe water, and enjoyment of essential health services, especially in light of the spread of the Covid-19 and the climate change consequences.
21. The right to education is guaranteed under Article 26 of the UDHR Article 18 of the ICCPR, Article 13 of the ICESCR, and Articles 28 and 29 of the CRC. States parties to these instruments, including Syria, must take all measures that guarantee the protection of the right to education and reduce dropout rates. In the context of internal displacement, Principle 23 of the Guiding Principles affirms that the authorities concerned shall take all necessary measures to ensure that IDPs, especially children, enjoy their right to education. Despite this, the above facts indicate that government forces and allies have targeted educational facilities in northwestern Syria and failed to provide a safe environment for internally displaced children to obtain their right to education.
22. Principles 24 and 25 from the Guiding Principles affirm that the national authorities, in the first place, are obliged to provide all humanitarian assistance under the principles of humanity and impartiality without discrimination to all IDPs. This humanitarian assistance shall not be diverted for political or military reasons. Furthermore, all authorities are obliged to allow and facilitate the free passage of humanitarian assistance and enable the persons providing such aid to have rapid and unimpeded access to IDPs. However, the facts

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<sup>32</sup> CESCR, 'General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)' (1991) E/1992/23 para 8.

indicate that Syria has failed to exercise due diligence to fulfill its duty to provide adequate humanitarian assistance to IDPs in all areas outside its control. It has also used food and medical supplies for barter and negotiation with the non-state actors that control the areas of northeastern Syria in which IDPs are located. Therefore, the rights of IDPs to food and health are made vulnerable to extortion and military bargains.

23. As for the protection of vulnerable groups, Principle 4 of the Guiding Principles stipulates that the vulnerable categories of IDPs, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their conditions. Despite this, the facts mentioned above indicate that these groups of IDPs do not have the essential elements to protect their rights in the context of the double vulnerability they live in as vulnerable groups of IDPs.
24. Article 6 of the UDHR and Article 16 of the ICCPR guarantee the right of everyone to recognition everywhere as a person before the law. In the context of IDPs, Principle 20 of the Guiding Principles emphasizes this right, referring to the authorities' duty to issue all documents IDPs need to enjoy and exercise their legal rights, including passports and personal identification documents, birth certificates, and marriage certificates. In particular, the state must facilitate issuing new documents or replacing missing documents due to displacement without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence to obtain these documents or other documents needed.
25. Furthermore, Principle 21 of the Guiding Principles emphasizes that IDPs shall not be arbitrarily deprived of their possessions and property, as well as the duty of the state to protect, in all circumstances, the possessions and properties of IDPs from pillage, direct or indiscriminate attacks or other violent acts. In addition, the state shall protect the possessions and properties left behind by IDPs from arbitrary and unlawful destruction and appropriation, as well as from occupation or use. In this regard, Principle 29 emphasizes that the competent authorities are obliged to assist returning IDPs in recovering their properties and possessions that were left behind or taken from them at the time of their displacement, whenever possible. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation. According to the facts, it is clear that the practices of the Syrian Arab Republic in this regard do not comply with international human rights law, as national legislation and action strategies expose the property of IDPs to the risk of looting and impede their ability to protect it. In addition,

state agencies in some areas don't cooperate with IDPs to defend their property, which undermines their right to protect their property on the one hand and to return to their habitual areas of residence on the other.

26. In the context of armed conflict, international humanitarian law prohibits targeting civilian objects and civilians not directly participating in hostilities and protecting them from indiscriminate attacks. The International Bill of Human Rights guarantees in Article 3 of the UDHR and Article 6 of the ICCPR the right to life. Likewise, the same right is set forth in Article 6 (2) of the CRC ratified by Syria in 1993 and Article 10 of the CRPD ratified by Syria in 2009. In applying this right in the context of IDPs, Principle 10 of the Guiding Principles indicates that IDPs must be protected from killing. This principle prohibits, under all circumstances, direct or indiscriminate attacks against IDP camps and against those who do not directly participate in hostilities or who have ceased to participate. When viewing the above facts, it appears that Syria has not fulfilled its obligations to protect the right to life of IDPs, as it has not distinguished civilians not participating in hostilities nor even civilian objects to be protected from direct targeting. The Commission of Inquiry in this regard has concluded that there are reasonable grounds to believe that the Syrian government and its allies were involved in the war crime of launching indiscriminate attacks on medical facilities that killed and injured civilians.<sup>33</sup>
27. Arbitrary detention is a violation of the right to liberty according to Article 9 of the UDHR, which states that no person may be arbitrarily arrested, detained, or exiled. ICCPR also indicates that everyone has the right to liberty and security. No one may be arbitrarily arrested or detained, and no one may be deprived of his freedom except for reasons stipulated by law and following the procedure established therein. As for this right in the context of IDPs, Principle 12 of the Guiding Principles ensures that IDPs shall be protected from being arrested and detained on discriminatory grounds by their status as displaced persons. In this regard, it is worth noting that the Working Group on arbitrary detention identifies five categories in which detention is arbitrary. For example, the second category, determined by the Working Group on arbitrary detention, states that detention is arbitrary when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed under Articles 7, 13, 14, 18, 19, 20, and 21 of UDHR. As for states parties, detention is considered arbitrary when the deprivation of liberty results from exercising the rights or freedoms guaranteed under Articles 12, 18, 19, 21, 22, 25, and 26 27 of ICCPR.

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<sup>33</sup> 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, Submitted to the Human Rights Council in Its Forty-Eighth Session' (n 26) 54–58.

The fifth category of arbitrary detention is when the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic status, political or other opinions, gender, sexual orientation, disability, or any other group that results or may result in a disregard for human equality.<sup>34</sup> According to the facts mentioned above, the Syrian state agencies have arrested citizens who have returned to Syria, either because they exercised their right of movement and displacement to places outside the control of the government, because of the exercise of their right to expression, or because of their origin and place of birth.

28. In addition, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that detained or imprisoned persons shall communicate with the outside world, in particular with their families and counsels.<sup>35</sup> The detained or imprisoned persons shall have the right, immediately upon arrest and after each transfer from one place of detention to another, to notify or require the competent authority to notify members of their families or other appropriate persons of the choice of their whereabouts.<sup>36</sup> A detained person shall also have the right to communicate with his/her lawyer, be visited by family members, and be given an adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions established by law.<sup>37</sup>
29. It should be noted that families of the forcibly disappeared have the right to know the facts regarding their disappeared loved ones, to know the progress and results of the investigation, to know the fate or whereabouts of the disappeared, to know the circumstances of the disappearance, and to know the identity of the perpetrators.<sup>38</sup> The right to know the facts and whereabouts of the disappeared persons includes the right to recover the remains of the deceased. The mere fact that the family is informed of the death of the missing person does not mean the end of the crime of enforced disappearance.<sup>39</sup> In the context of IDPs, Principle 16 of the Guiding Principles affirms the right of all IDPs to know the fate and whereabouts of their missing loved ones. The competent authorities must seek

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<sup>34</sup> UNGA, 'Report of the Working Group on Arbitrary Detention, United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court' (2015) A/HRC/30/37 para 10.

<sup>35</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 1988 (UNGA Res 43/173) Principle 15.

<sup>36</sup> *ibid* Principle 16(1).

<sup>37</sup> *ibid* Principle 18,19.

<sup>38</sup> International Convention for the Protection of All Persons from Enforced Disappearance 2006 Art 24.

<sup>39</sup> UNGA, 'Report of the Working Group on Enforced or Involuntary Disappearances' (2011) A/HRC/16/48 para 572.

to determine the fate and whereabouts of IDPs, inform the next of kin of the progress of the investigation and provide them with the results. The authorities should also endeavor to hand over the mortal remains of the deceased IDPs to the next of kin or dispose of them respectfully and provide IDPs with access to their relatives' graves.

30. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment indicates that states should prohibit by law any act inconsistent with the rights and duties set out above, make any such action subject to appropriate penalties, and conduct impartial investigations into complaints.<sup>40</sup> In this regard, the United Nations Basic Principles on Remedies emphasize that states are obliged to legally and constitutionally guarantee the right of victims to file lawsuits to challenge the arbitrariness and lawfulness of detention and facilitate all effective remedies for victims without delay.<sup>41</sup> The Working Group on enforced disappearances emphasizes that persons who have committed or have been claimed to have committed cases of enforced disappearance may not benefit from any special amnesty law or any other similar measure that may result in the exemption of these persons from any criminal trial or punishment.<sup>42</sup> However, the facts mentioned above show that the Syrian state has failed in its obligations as it has deprived the victims of their right to an effective remedy and guarantees of non-reoccurrence, especially concerning granting an amnesty to the perpetrators of kidnapping crimes. This crime, *according to the Syrian Arab Republic argument*, is the legal framework to hold the perpetrators of enforced disappearances accountable under domestic law. In addition, there are decrees that prevent the prosecution of security forces members without obtaining approval from their administration.

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<sup>40</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 1988 (UNGA Res 43/173) Principle 7 (1).

<sup>41</sup> UNGA, 'Report of the Working Group on Arbitrary Detention, United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court' (2015) A/HRC/30/37 Principle 2.

<sup>42</sup> UNGA, 'Report of the Working Group on Enforced or Involuntary Disappearances' (2011) A/HRC/16/48 para 573.

## Recommendations

1. Kindly request the Syrian Arab Republic provide any additional information and/or comment(s) on the above allegations.
2. Kindly request the Syrian Arab Republic to clarify the policies and procedures it has taken to protect, respect, and fulfill the rights of IDPs, especially after the recent visit of the Special Rapporteur on the protection of the rights of IDPs to Syria, which was made from 16 to 19 May 2015.
3. Kindly request the Syrian Arab Republic to explain the measures it has taken to protect, respect, and ensure the enjoyment of IDPs, especially those residing in areas outside its control, with an adequate standard of living and the duty to provide them with basic food, drinking water, appropriate clothing, medical services and health facilities, shelter, and decent dwellings.
4. Kindly request the Syrian Arab Republic to clarify the procedures to provide identification documents to IDPs and protect vulnerable groups of IDPs such as children and women and people with disabilities.
5. Kindly request the Syrian Arab Republic to explain the measures it has taken to protect, respect, and fulfill the right to education of IDPs, especially children in places outside the government's control.
6. Kindly request the Syrian Arab Republic to explain due diligence measures it has taken to provide appropriate humanitarian assistance to IDPs and its actions to ensure that this assistance direct to IDPs is not subject to any political or military purposes.
7. Kindly request the Syrian Arab Republic to clarify the measures to ensure that civilians not participating in hostilities and civilian objects, primarily educational and medical facilities, are protected from direct targeting or indiscriminate attacks.
8. Kindly request the Syrian Arab Republic to indicate the measures taken to ensure the safety of IDPs returning to the Syrian government's areas and ensure that they can restore and protect their property without any obstacles or threats.
9. Kindly request the Syrian Arab Republic to provide information on the policies and procedures to ensure that security services and other relevant actors fulfill their obligation to protect the human rights of those who have returned to the Syrian government's areas.
10. Kindly request the Syrian Arab Republic to provide details about any investigation carried out concerning violations alleged above and its results if any. If no investigations have been conducted or the investigations are not complete, please explain why.

11. If the alleged perpetrator(s) is identified, please request the Syrian Arab Republic to provide full details of any prosecutions that have taken place to date and any effective remedy or financial compensation granted to the victims or their families.
12. Kindly request the Syrian Arab Republic to provide information on Decree No. 13 of 2021, which provides a general amnesty for crimes committed before 2 May 2021, specifically Article 7 of it, which grants an amnesty for kidnapping crimes. Please provide information regarding the impact of the mentioned decree on the right of victims in particular and the Syrian society, in general, to prosecute the perpetrators and ensure effective remedy and non-reoccurrences.
13. Kindly request the Syrian Arab Republic to provide information about the measures that exist or that the state intends to take to ensure the independence of the Public Prosecution in initiating prosecutions against security personnel, such as officers, members of the internal security forces, members of the political security forces, and others without obtaining the approval of the Commander in Chief of Armed Forces, for the crimes they commit because of the tasks assigned to them.
14. Kindly request the Syrian Arab Republic to provide information on the application of statutes of limitations for criminal cases, especially concerning international crimes, and its impact on victims' right to an effective remedy in light of their inability to file lawsuits against alleged perpetrators without the approval of their administration.



## **Signed Syrian Organisations:**

### **Hurras Network**

Hurras Network for the Protection and Care of Syrian Children, established in 2013, is the primary Syrian non-governmental organization specialized in child protection. Hurras Network is a member of the steering committee of the Child Protection Alliance and is part of several working groups of the UNOCHA Protection Cluster related to the Syrian conflict. The Hurras Network monitors and documents violations against children, which feeds into Hurras Network's urgent intervention case-management and provides capacity-building and raising awareness initiatives to Syrian communities to advance child protection in relation to child recruitment, protection from child and early marriage, child labor and access to education, in addition to empowering society to guarantee equal opportunities for both boys and girls. Since 2013, Hurras Network has provided urgent protection services to more than 500,000 children, in addition to advancing children access to health care, and education, and return to school to more than 60,000 children. Hurras Network is headquartered in Turkey and runs a number of branch offices inside Syria.

### **Release Me**

Release Me is a non-profit civil organization, established in Syria in 2017, aims to advance and develop women's work to achieve women's access to decision-making positions at all levels. It also works to rehabilitate survivors of detention, women survivors of physical, psychological, and sexual violence, and those affected by it and provides a range of psychological support programs for children These women. It also works on civil peace and community integration programs.

The organization believes in the importance of diversity and difference, and that is why it works to promote diversity at all levels of its work, starting from the cadre, which includes a group of diverse cultural, ethnic, and national backgrounds, to the target groups.

### **Syrians for Truth and Justice**

Syrians for Truth and Justice was conceived during the participation of its co-founder in the Middle-East Partnership Initiative (MEPI) Leaders for Democracy Fellowship program, who was driven by a will to contribute to Syria's future. Starting as a humble project to tell the stories of Syrians experiencing enforced disappearances and torture, it grew into an established organisation committed to unveiling human rights violations of all sorts.

Convinced that the diversity that has historically defined Syria is a wealth, our team of researchers and volunteers works with dedication at uncovering human rights violations committed in Syria, in order to promote inclusiveness and ensure that all Syrians are represented, and their rights fulfilled.

Since its establishment, STJ has had access to thousands of victims, documented hundreds of violations, and trained dozens of human rights activists. Its private database reflects this engagement and aims at contributing to the prospects for justice. Covering all areas of Syria, STJ has fostered its experience of documenting in a conflict zone in order to reach out to the population, hear their story, and collect evidence. Willing to enhance the Syrian civil society, we also implement capacity building projects in various topics, including digital security and civic engagement in order to transfer our skills and expertise to change-makers in the field.



## Justice for Life

**JFL** is a Syrian, independent, non-profit, non-governmental that is based in Berlin, Germany under the registration number 211/2019. It works on promoting human rights, advocacy, and peace-building in Syria.

It was established in 2015 by a number of human rights defenders and actors from Deir Ezzor province. This was a fruit of their individual and team defend for human rights in their communities, and documenting the human rights violations that are committed by different parties and powers who have been in the province since 2011, to make it as a platform and space for those who defend human rights and victims in order to advocate and defend their cases in accordance with a legal and professional course, so these violations and acts do not go by no just accountability. It also aims at promoting the human rights in the Syrian society and state on the political, behavioral, and cultural levels in order to ensure access for the victims and their relatives to their rights. In this endeavor, JFL expanded its work in 2016 to be an active and effective part in the national and international alliances and platforms concerned in human rights and documenting violations in Syria, and preparing the profiles of violations and crimes that took place against the Syrians since 2011 according to mechanism and methodologies compatible with international legal standards.

## The Day After

TDA is a Syrian organization that works to support the democratic transition in Syria. Its scope of work focuses on the following areas: the rule of law, transitional justice, security sector reform, electoral systems design and the election of the Constituent Assembly, constitutional design, economic reform and social policies.

In August 2012, The Day After Project (TDA) brought together a group of Syrians representing a large spectrum of both the Syrian opposition and civil society, representing all major political trends and components of Syrian society, to participate in an independent transition planning process. They produced a comprehensive report on managing the challenges of a post-Assad transition in Syria: [The Day After: Supporting a Democratic Transition in Syria](#).

Realizing that transition in Syria would take longer than expected, TDA decided to establish an organization to disseminate the findings of the report among Syrians inside the country and to implement projects that serve the vision and objectives of the report.